

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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AVALON HOLDINGS CORPORATION,

Plaintiff,

Case No.: 1:18-cv-7291-VSB-RWL

– against –

GUY GENTILE AND MINTBROKER INTERNATIONAL, LTD.,

Defendants

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DEFENDANTS' NOTICE OF MOTION FOR SUMMARY JUDGMENT

PLEASE TAKE NOTICE, that upon the Memorandum of Law in Support of Defendants' Motion for Summary Judgment dated August 10, 2020, the Declaration of Danielle M. McLaughlin in Support of Defendants' Motion for Summary Judgment dated August 10, 2020, and all exhibits attached thereto, Defendants' Local Rule 56.1 Statement of Undisputed Material Facts, and upon all the papers and proceedings had herein, Defendants Guy Gentile and Mintbroker International, Ltd. will move this court, before the Honorable Robert W. Lehrburger, at the Daniel Patrick Moynihan United States Courthouse for the Southern District of New York located at 500 Pearl St., New York, NY 10007-1312 on a date and at a time to be designated by the Court, for an Order pursuant to Federal Rule of Civil Procedure 56 granting summary judgment to Defendants on the basis that there is no genuine dispute of material fact that Defendants were not "beneficial owners" of Plaintiff's securities subject to Section 16(b) of the 1934 Securities Exchange Act, as Amended, 15 U.S.C. § 78a, because they did not "trade in securities" but in traded in "positions" in New Concept securities.

PLEASE TAKE FURTHER NOTICE, that pursuant to Local Rule 6.1, and the scheduling agreement consented to by this court, (ECF Doc. No. 70) Plaintiff's opposition papers must be filed by September 17, 2020 and Defendants' Reply must be filed by September 28, 2020.

Defendants hereby respectfully request oral argument on their motion for summary judgment.

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Dated: New York, New York
August 10, 2020